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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT CALIFORNIA**

13 _____)
14 IN RE RACKABLE SYSTEMS, INC.)
15 SECURITIES LITIGATION)

Case No. C-09-0222-CW

CLASS ACTION

16 _____)
17 THIS DOCUMENT RELATES TO:)
18 ALL ACTIONS)

Date: November 19, 2009

Time: 2:00 p.m.

Courtroom: 2, 4th Floor

19 **PLAINTIFF'S SUBMISSION OF RECENT DECISIONS**

We are lead counsel for Lead Plaintiff in the referenced securities fraud class action. Pursuant to L.R. 7-3(d) attached as Exhibits A and B hereto are recent decisions in this Circuit relevant to some of the issues raised in the above-referenced action. Neither case was mentioned in defendants' reply brief filed November 2, 2009.

Attached as Exhibit A is the decision in *Siracusano v. Matrixx*, ___ F.3d ___, 2009 WL 3448282 (9th Cir. October 28, 2009), reversing the dismissal of securities fraud claims and remanding to the district court. Therein, the Ninth Circuit addresses the issues of falsity, including misstatements or omissions contained in "cautionary language," and scienter.

Attached as Exhibit B is the district court's decision in *South Ferry LP #2 v. Killinger*, ___ F. Supp. 2d ___, 2009 WL 3153067 (W.D. Wash. Oct. 1, 2009), *on remand from* 542 F.3d 776 (9th Cir. 2008). The district court, as directed by the Ninth Circuit, applies the "core operations inference" to the facts of that case. The core operations' scienter inference has been pleaded and is one of the subjects of the parties' arguments in the instant action.

Dated: November 3, 2009

Respectfully submitted,

GLANCY BINKOW & GOLDBERG LLP

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***Lead Counsel for Lead Plaintiff
 and the Class***

**PROOF OF SERVICE BY ELECTRONIC POSTING
PURSUANT TO NORTHERN DISTRICT OF CALIFORNIA LOCAL RULES AND
ECF GENERAL ORDER NO. 45
AND BY MAIL ON ALL KNOWN NON-REGISTERED PARTIES**

I, the undersigned, say:

I am a citizen of the United States and am employed in the office of a member of the Bar of this Court. I am over the age of 18 and not a party to the within action. My business address is 1801 Avenue of the Stars, Suite 311, Los Angeles, California 90067.

On November 3, 2009, I served the following by posting such documents electronically to the ECF website of the United States District Court for the Northern District of California:

PLAINTIFF'S SUBMISSION OF RECENT DECISIONS

on all ECF-registered parties in the action as listed below:

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There are currently no ECF non-registered parties in this action.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 3, 2009, at Los Angeles, California.

S/Michael Goldberg
Michael Goldberg